
CITY OF SAN ANTONIO

OFFICE OF THE CITY AUDITOR



Audit of Capital Improvements Management Services Department

Edwards Aquifer Protection Venue

Project No. AU10-002

October 1, 2010

Executive Summary

As part of our annual Audit Plan, we conducted an audit of the Capital Improvement Management Services Department (CIMS), specifically the Proposition 1 Edwards Aquifer Protection Venue (Program). The audit objective, conclusions, and recommendations follow:

Are controls in place to ensure the Edwards Aquifer portion of City sales tax is distributed and used as intended?

Yes, the Edwards Aquifer portion of City sales tax is distributed and used as intended. Tax revenues are used to acquire qualifying properties in the Aquifer recharge and contributing zones at amounts that are reasonable for taxpayers and landowners. However, there are opportunities to strengthen controls over Program monitoring and accounting.

We recommend the CIMS Director:

- Implement procedures to ensure CIMS personnel submit conservation easement documents to the Edwards Aquifer Authority timely and approve the resulting monitoring plans within a reasonable timeframe.
- Document disposition of issues for completed monitoring inspections, present plans to the Conservation Advisory Board for evaluation and address any easement violations.
- Make accounting adjustments to reverse charges of \$48,193.05 erroneously expensed and charge to the proper Program.
- Request a replacement check of \$12,323 for revenue not deposited and a refund of \$4,071.25 for a duplicate payment of environmental expenses.
- Make corrections to include appraisal fees of \$6,000 that were incorrectly charged to a separate program.
- Pay \$800 in Land Acquisition Team fees as required by agreement.
- Implement procedures to ensure accounting for Program transactions is accurate and complete.

CIMS Management's verbatim response is in Appendix B on page 8.

Table of Contents

Executive Summary	i
Background.....	1
Audit Scope and Methodology	2
Audit Results and Recommendations	4
A. Program Acquisitions.....	4
B. Conservation Easement Monitoring.....	4
C. Program Expenditures and Accounting	6
Appendix A – Staff Acknowledgement.....	7
Appendix B – Management Response.....	8

Background

Voters approved the first Edwards Aquifer Protection Venue in May of 2000. It imposed a 1/8th-of-a-cent sales tax venue up to \$45 million to acquire land over the Edwards Aquifer for watershed protection and parks. That program, Proposition 3, ran from 2000 through 2005, was limited to Bexar County and acquired more than 6,500 acres as natural areas for the City of San Antonio.

In May 2005, voters approved Proposition 1, which authorized the City to protect the Edwards Aquifer by imposing 1/8th-of-a-cent sales tax for an additional amount not to exceed \$90 million. The purpose of the Edwards Aquifer Protection Proposition 1 Venue (Program) was to obtain property rights by fee-simple purchase, conservation easements or donations of land over sensitive zones of the Edwards Aquifer. Proposition 1 narrowed the original scope to include watershed protection only, but expanded the geographic limit to include areas outside of Bexar County. Outside counties are important because 53% of the recharge zone is in Medina and Uvalde counties, compared to 10% in Bexar County.

Section 321.503 of the Tax Code allows the State of Texas to deduct a 2% service fee on the amount of sales taxes the State collects. It is bond counsel's position that the City is authorized to collect \$90 million plus the State fee of 2% for Proposition 1. The Finance Department retains the City's portion of sales tax the City collects; these are not subject to the service fee. For October 2005 through June 2010, the State remitted \$69,762,531 and the City retained \$395,351 of sales tax allocated to Proposition 1.

To achieve Program objectives, City management identified sensitive zones where the water replenishes the aquifer. To accomplish this, City Council approved the creation of two community advisory boards and one implementation team to help implement the Program. The name and purpose of each team follows:

- Scientific Evaluation Team (SET) – advisory board to identify potential properties to acquire based on a GIS spatial model designed by the team.
- Conservation Advisory Board (CAB) - provide input and advice to City Council to implement Proposition 1.
- Land Acquisition Team (LAT) - non-profit land trusts that report the availability of certain tracts to the CAB.

The City also approved an Interlocal Agreement with the Edwards Aquifer Authority (EAA). This Agreement delegates Program responsibilities to the EAA

to evaluate potential acquisitions and provide conservation easement monitoring services.

Between Proposition 3 in 2000 and the 2005 Proposition 1 Program, the City has limited development and usage on more than 95,000 acres of property. (See **Protected Areas** table below). Current projections indicate that the full sales tax revenue amount will accrue in the fall of 2011. However, using commercial paper¹, the Capital Improvement Management Services Department (CIMS) projects that Program acquisitions will be near completion in the fall of 2010.

Protected Areas

Explanation	Properties	Acres
Proposition 3 conservation easement	1	42
Proposition 3 fee simple property purchases and donation	16	6,539
Total Proposition 3 acquisitions	17	6,581
Proposition 1 conservation easements as of 6/30/10	31	88,648
Proposition 1 fee simple properties as of 6/30/10	3	569
Total Proposition 1 acquisitions	34	89,217
Total protected properties as of 6/30/10	51	95,798

Audit Scope and Methodology

The audit scope included Proposition 1 acquisitions, sales tax revenue, and commercial paper transactions from October 2005 through June 2010.

We interviewed personnel from CIMS Real Estate Acquisition and Fiscal areas and the City's Finance department. We also observed processes and reviewed relevant documentation such as contracts, City ordinances, and written policies and procedures to obtain an understanding of the Program.

We examined source documents for each of the 34 Proposition 1 acquisitions, including requests for payment, invoices, property geographic information, appraisals and surveys. We reviewed the City's sales tax receipts for proper allocation to the Program and evaluated the use of commercial paper for financing acquisitions. Testing criteria included interlocal agreements, contracts,

¹ Ordinance 2007-05-10-0526 authorized the City to issue commercial paper notes not to exceed \$50 million to provide funds to acquire property for the Program. The City is required to pay the notes with Program sales tax revenue.

generally accepted accounting principals, the Local Government Code and the Tax Code.

We evaluated computer-processed data in the City's accounting system to review Program expenditures, sales tax allocations, and commercial paper transactions to validate accuracy and completeness. We performed direct tests on the data rather than evaluate the system's general and application controls. We do not believe that the absence of testing general and application controls had an effect on the results of our audit.

We conducted this audit from May 2010 to August 2010 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our audit results and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our audit results and conclusions based on our audit objectives. Our audit included tests of management controls that we considered necessary under the circumstances.

Audit Results and Recommendations

A. Program Acquisitions

CIMS personnel ensured the City acquired only properties located in qualifying Aquifer recharge and contributing zones through the Program. Land Acquisition Team members coordinated with the CIMS Project Manager (PM) to identify potential properties based on the Scientific Evaluation Team GIS spatial model. The Edwards Aquifer Authority, LAT and CIMS personnel then conducted initial site visits. The LAT ordered property appraisals at full market value and market value as encumbered by a conservation easement to determine if it would be favorable to acquire the respective properties. The Conservation Advisory Board and PM approved surveys, inspections and environmental assessments for acceptable potential properties and then presented acquisition recommendations to City Council for approval.

CIMS staff utilized voter-approved tax dollars for the Program at amounts that are reasonable for taxpayers and landowners. Properties encumbered by conservation easements have a decreased market value because the easements permanently limit present and future landowners from certain property development and usage. For properties the Program did acquire, the City paid an average of 97.3% of the appraised values of conservation easements and 91.1% of the appraised value for fee simple property purchases. Program team members also considered but disapproved 26 properties for acquisition because potential costs outweighed the benefits.

Property owners subsequently sold five properties that had Program conservation easements. Based on review of original acquisition and subsequent sales information, the City paid an average discount of 37.3% on the existing full market value for the respective properties. The landowners later sold their properties at an average discount of 40.8% on the full market at that time. Based on these results, amounts the City paid for conservation easements appear to be reasonable.

Recommendation

No recommendations.

B. Conservation Easement Monitoring

Conservation easements have not been consistently monitored to ensure landowners comply with easement agreements. In addition, for those properties that were inspected, CIMS has not documented the final resolution of identified issues. The City's monitoring responsibilities are to coordinate with the EAA and

review Program operations. This includes supplying the EAA with all documents necessary for it to prepare conservation easement monitoring plans (CE Plans), approving the CE Plans and enforcing conservation easements. The Interlocal Agreement between the City and the EAA delegates Program responsibilities to the EAA to prepare CE Plans, perform on-site inspections, report easement violations or potential violations, and update the City on the status of approved CE Plans.

B.1 CIMS personnel have not provided necessary easement documentation to the EAA or approved CE Plans timely as follows:

Explanation	Number of Properties
CE Plans required ²	30
Approved CE Plans	(7)
CE Plans (dated January 2009) awaiting approval	<u>(2)</u>
Documents not submitted to EAA to prepare CE Plan (acquired August 2008 through June 2010)	21

CIMS personnel have not approved two CE Plans or provided easement documentation to the Authority for 21 properties because they have focused resources on property acquisitions. Because of this delay, 23 properties have not been inspected.

B.2 The EAA performed inspections of seven properties and issued inspection reports to the City. CIMS personnel have not documented the disposition of issues indicated in the EAA's easement inspection reports. Inadequate monitoring and management of issues can result in undetected easement violations.

Recommendations

The CIMS Director should ensure:

B.1 Personnel implement procedures to submit conservation easement documents to the EAA timely and approve the resulting monitoring plans within a reasonable timeframe.

B.2 Personnel document disposition plans to address issues identified in CE inspection reports, present plans to the CAB for evaluation and address any easement violations.

² CE Plans are not required for 3 fee simple properties and one conservation easement amended to include subsequently acquired adjacent property and be included as one CE Plan.

C. Program Expenditures and Accounting

Between October 2005 and June 2010, the City paid over \$87 million for Program acquisitions. Overall, accounting totals are accurate at the Program level; however, expenses are overstated by a net amount of \$57,787.30, as shown below:

Explanation	Amount
Expenses for a separate program erroneously charged	(\$48,193)
October 2007 payment from LAT agency not deposited or credited	(\$12,323)
Appraisal fees incorrectly charged to a separate program	\$6,000
Duplicate environmental expenses paid to title company	(\$4,071)
LAT fees not paid to agency per agreement	<u>\$800</u>
Overstatement of Program Expenses	(\$57,787)

In addition, \$765,885.03 of internal allocations for expenditures are misclassified in the City's accounting system. Generally accepted accounting principles (GAAP) require accurate and complete transaction classification and recording.

Recommendation

The CIMS Director should ensure personnel:

- Make accounting adjustments to reverse charges of \$48,193.05 erroneously expensed and charge to the proper program,
- Obtain a replacement check for \$12,323 from the LAT agency,
- Make corrections to include appraisal fees of \$6,000 that were not charged to the Program,
- Collect \$4,071.25 due from the title company,
- Pay \$800 in LAT fees as required by the LAT agreement, and
- Implement procedures to ensure accounting for Program transactions is accurate and complete.

This concludes the Audit Results and Recommendations. Management's responses to the observations will be in **Appendix B**.

Appendix A – Staff Acknowledgement

Barry Lipton, CPA, DABFA, Deputy City Auditor

Kevin Barthold, CPA, CIA, CISA, Audit Manager

Dawn Oppermann, CPA, CIA, CGAP, CCSA, Auditor in Charge

Appendix B – Management Response

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
A	Program Acquisitions	4	Accept	Mike Etienne, CIMS Assistant Director	Completed
Action plan: No finding was identified. As mentioned on page 4 of the audit report, CIMS personnel successfully and accurately acquired properties ahead of schedule that are located only in the qualifying Aquifer recharge and contributing zones through the Program and paid less than the appraised value.					
B.1	Conservation Easement Monitoring Plans Recommendation: The Capital Improvements Management Services (CIMS) Director should ensure personnel implement procedures to submit conservation easement documents to the Edwards Aquifer Authority (EAA) timely and approve the resulting monitoring plans within a reasonable timeframe. Note: The EAA was created by the State in 1993 to monitor activities in the Aquifer area. In 2008, COSA finalized an interlocal agreement with the EAA to monitor/inspect all acquired conservation easements.	5	Accept	Mike Etienne, CIMS Assistant Director	Completed September 2010

Appendix B – Management Response (Continued)

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
	<p><u>Action plan:</u></p> <p>The Edward's Aquifer Program has been in existence since May 2005. CIMS assumed management of the program in 2007 and only one staff was assigned to the program. In an effort to prioritize, staff focused its efforts on acquiring as many properties as possible, and thus not enough time was dedicated to preparing for monitoring and inspections. Now that all properties have been successfully acquired, staff has dedicated more time and efforts on monitoring and inspections of properties.</p> <p>Corrective Action Plan</p> <ul style="list-style-type: none"> • CIMS has allocated additional staff to ensure timely submittal of all necessary documents to the EAA. • As of September 10, 2010, the City has approved the 2 monitoring plans that have been awaiting approval since January 2009 and have provided EAA with necessary documents for the 21 outstanding properties in order for EAA to prepare the plan. These necessary documents include title information and current condition survey of property. • CIMS will ensure that the EAA submits monitoring plans and staff review those plans in a timely manner so that begins inspection may promptly begin. • Beginning October 2010, the EAA will submit a monthly report to CIMS staff on monitoring and inspections activities. • The Conservation Advisory Board has approved using funds from this program to provide full time staffing to ensure successful monitoring and inspections of all properties. Previously, one position has been funded by the City's General Fund for the program; however, including the position funding within the program ensures the focus of the position will remain fully dedicated to the Edwards Aquifer Protection Program. • A new unit focused solely on the Edwards Aquifer Protection Program will be created in CIMS by December 31, 2010. This unit will have two full time staff to perform acquisition and monitoring activities. The need for additional staff will be evaluated on a quarterly basis to ensure proper distribution of workload. 				

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
B.2	<p>Conservation Easement Monitoring Disposition Plans</p> <p>Recommendation: The CIMS Director should ensure personnel document disposition plans to address issues identified in conservation easement (CE) inspection reports, present plans to the Conservation Advisory Board (CAB) for evaluation and address any easement violations.</p> <p>Note: The CAB was appointed by City Council to advise City Council on Proposition 1 & 2.</p>	6	Accept	Mike Etienne, CIMS Assistant Director	Corrective Actions to be Completed by January 31, 2011

Appendix B – Management Response (Continued)

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
	<p><u>Action plan:</u></p> <p>Since January 2010, "Property Status Updates" has been made a regular item on the CAB's meeting agenda. In addition, a policy regarding how to resolve potential easement violations was approved by the CAB in May 2010. Both items are now integral parts of the monitoring phase of the program.</p> <p>Corrective Action Plan</p> <ul style="list-style-type: none"> • In advance of this audit, formal procedures were established to document and track all easement violations by landowners. • CAB approved a policy on how to address potential easement violations in May 2010. Under this policy, staff will present all violations and corrective measures to the Conservation Advisory Board for consideration. This policy requires notice of easement violations to be sent to landowners and a plan to resolve any violations will be developed with the landowner. • Staff will present all easement violations and potential corrective measures to the CAB for evaluation and concurrence. • A new CIMS Assistant Director for Real Estate, with 20 years in real estate and land management has recently been hired. The Assistant Director's duties will include evaluating practices and strengthening controls over program monitoring and accounting. 				

Appendix B – Management Response (Continued)

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
C.	<p>Program Expenditures and Accounting</p> <p>Recommendation: The CIMS Director should ensure personnel:</p> <ul style="list-style-type: none"> Obtain a replacement check for \$12,323 from the Land Acquisition Team (LAT) agency, Collect \$4,071.25 due from the title company, Correct the \$48,193.05 charges erroneously expensed to the program, Make corrections to include appraisal fees of \$6,000 which were not charged to the program, Pay \$800 in LAT fees as required by the LAT agreement, and Implement procedures to ensure accounting for program transactions is accurate and complete. 	6	Accept	Debbie Sittre, CIMS Assistant Director	All Corrective Actions are Expected to be Completed by September 30, 2010

Appendix B – Management Response (Continued)

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

Recommendation					
#	Description	Audit Report Page	Accept, Partially Accept, Decline	Responsible Person's Name/Title	Completion Date
	<p>Action plan: There were 5 areas noted in the audit relating to accounting errors such as incorrect application of expenses, missing reimbursements and a missing payment to a third party. These items total \$71,387. Compared to the total \$90 million program, this reflects 0.08% of the program.</p> <p>Additionally the auditors recommended a change in the accounting procedures so that expenditures would be classified in a more detailed manner. The audit references changes that could have been recorded for more accurate accounting. These accounting changes are less than 1% of the total program expenses. The program expenditure and accounting related findings have little to no impact on the program.</p> <p>Corrective Action Plan</p> <p><u>Accounting Errors</u></p> <ul style="list-style-type: none"> • CIMS has confirmed with the LAT Agency that a check for \$12,323 was never cashed. A replacement check for \$12,323 has been requested and is in the process of being reissued from the LAT Agency. The Land Acquisition Team (LAT) is composed of non-profit land trusts reporting to the CAB on the availability of certain tracts based upon CAB directives. • The title company has acknowledged that the refund check was inadvertently sent by the title company to the wrong party (landowner). CIMS has requested a refund which the title company has agreed to issue in the amount of \$4,071.25 to the City. • The \$48,193.05, which had been erroneously expensed to Proposition 1 in 2006, has been expensed to the correct program (Linear Creekway Program) through a journal entry that posted August 31, 2010. • The \$6,000 incorrectly expensed to other programs has been correctly expensed to this project through a journal entry in September 2010. • Payment to the LAT Agency for \$800 as required by the LAT agreement was made on September 14, 2010. <p>(continued on next page)</p>				

Appendix B – Management Response (Continued)

Capital Improvements Management Services
Audit of Edwards Aquifer Protection Venue

(continued)

Accounting Procedures

- The City had classified land acquisition related expenses to the "land acquisition" general ledger account. Although land acquisition is the greatest cost to the program, minor costs are for environmental, appraisals, title fees, courier fees and other miscellaneous related expenses. These minor costs should have been booked into different general ledger categories. As a result of this audit, CIMS worked closely with the City's Finance Department to create a more consistent cost classification naming convention so that future program managers can easily track costs. Even though the audit did not require CIMS to reclassify expenditures for historical purposes, the CIMS and the Finance Department have performed a journal entry to ensure historical program expenses are correctly classified using the new consistent naming convention. Although, this finding does not negatively affect the program, the corrective action plan will strengthen the past and future reporting of program expenses.

We are committed to addressing the recommendations in the audit report and the plan of actions presented above.

Sincerely,



Michael S. Frisbie
Director
Capital Improvements Management Services Department

9-27-10
Date



Peter Zanolli
Assistant City Manager
City Manager's Office

9-28-10
Date